

Senate Bill No. 1247

Passed the Senate August 29, 2014

Secretary of the Senate

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 94801, 94802, 94809, 94813, 94816, 94829, 94837, 94847, 94874, 94874.1, 94876, 94877, 94878, 94879, 94880, 94885, 94888, 94890, 94891, 94904, 94909, 94910, 94916, 94923, 94924, 94925, 94929.5, 94930.5, 94932.5, 94941, 94945, 94948, and 94950 of, to add Sections 94874.2, 94880.1, 94885.5, and 94947 to, to add and repeal Sections 94885.1 and 94929.9 of, and to repeal and add Section 94949 of, the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, Lieu. Private postsecondary education: California Private Postsecondary Education Act of 2009.

Existing law, the California Private Postsecondary Education Act of 2009, provides for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The act exempts an institution from its provisions, if any of a list of specific criteria are met.

This bill would recast and revise various provisions of the act. The bill would, beginning January 1, 2016, remove the exemption from its provisions for an institution that is approved to participate in veterans financial aid programs pursuant to a specified federal law, and that is not an independent institution of higher education, thereby making the act applicable to the institution.

The bill would require the bureau to, among other things, contract with the office of the Attorney General, or other appropriate state agency, to establish a process for bureau staff to be trained to investigate complaints filed with the bureau, post specified information on its Internet Web site, establish a task force no later than March 1, 2015, to identify standards for specified educational and training programs and provide a report to the Legislature regarding those programs, adopt minimum operating standards for an institution that ensure, among other things, that an institution offering a degree is accredited and that an unaccredited institution offering a degree satisfies certain requirements, and establish

application processing goals and timelines to ensure that an institution's application for approval to operate is promptly reviewed by the bureau.

The bill would make other technical and conforming changes.

The act establishes the Student Tuition Recovery Fund and requires the bureau to adopt regulations governing the administration and maintenance of the fund, including requirements relating to assessments on students and student claims against the fund, and establishes that the moneys in this fund are continuously appropriated to the bureau for specified purposes.

This bill would require those regulations to ensure that students are eligible for payment from the fund in specified circumstances.

Existing law repeals that act on January 1, 2015.

This bill would instead repeal that act on January 1, 2017, thus extending the operation of the act by 2 years.

By extending the operation of the Student Tuition Recovery Fund, a continuously appropriated fund, this bill would make an appropriation.

Under existing law, the act specifies conduct by regulated institutions that, if undertaken, is a crime.

Because this bill would extend the application of those criminal provisions, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would appropriate \$130,000 from the Private Postsecondary Education Administration Fund to the bureau for the 2014–15 fiscal year for staff support to the bureau and the advisory committee, as specified.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 94801 of the Education Code is amended to read:

94801. The Legislature finds and declares all of the following:

(a) In 2013, more than 300,000 Californians attended more than 1,100 private postsecondary schools in California.

(b) Private postsecondary schools can complement the public education system and help develop a trained workforce to meet the demands of California businesses and the economy; however, concerns about the value of degrees and diplomas issued by private postsecondary schools, and the lack of protections for private postsecondary school students and consumers of those schools' services, have highlighted the need for strong state-level oversight of private postsecondary schools.

(c) Numerous reports and studies have concluded that California's previous attempts at regulatory oversight of private postsecondary schools under the Department of Consumer Affairs have consistently failed to ensure student protections or provide effective oversight of private postsecondary schools.

(d) It is the intent of the Legislature in continuing the operation of this chapter for two years until January 1, 2017, to ensure all of the following:

(1) Minimum educational quality standards and opportunities for success for California students attending private postsecondary schools in California.

(2) Meaningful student protections through essential avenues of recourse for students.

(3) A regulatory structure that provides for an appropriate level of oversight.

(4) A regulatory governance structure that ensures that all stakeholders have a voice and are heard in policymaking by the bureau.

(5) A regulatory governance structure that provides for accountability and oversight by the Legislature through program monitoring and periodic reports.

(6) Prevention of the harm to students and the deception of the public that results from fraudulent or substandard educational programs and degrees.

(e) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and the Legislature should act quickly to correct them.

SEC. 2. Section 94802 of the Education Code is amended to read:

94802. An institution that had a valid approval to operate on June 30, 2007, issued by the former Bureau for Private Postsecondary and Vocational Education pursuant to former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it read on June 30, 2007, shall maintain that approval under this chapter. For the purposes of this chapter, the approval to operate shall be valid for three calendar years after the expiration date of the approval, as it read on June 30, 2007.

SEC. 3. Section 94809 of the Education Code is amended to read:

94809. (a) An institution that had an application for an approval to operate pending with the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, may continue to operate until a decision is made in regard to the institution regarding the application for approval to operate, but shall comply with, and is subject to, this chapter.

(b) An institution that did not have a valid approval to operate issued by, and did not have an application for approval to operate pending with, the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, that began operations between July 1, 2007, and January 1, 2010, may continue to operate unless a denial of approval to operate has been issued and has become final, but shall comply with, and is subject to, this chapter.

(c) Students seeking to enroll in institutions operating under subdivisions (a) and (b) shall be notified by the institution, in writing and prior to executing an enrollment agreement, that the institution's application for approval to operate has not been reviewed by the bureau.

(d) (1) An institution that is denied an approval to operate pursuant to subdivision (a) or (b) may file an appeal pursuant to the procedures established in Section 94888.

(2) An institution that has filed an appeal may continue to operate during the appeal process but must disclose in a written statement approved by the bureau, to all current and prospective students, that the institution's application for approval to operate was denied by the bureau because the bureau determined the application did not satisfy the requirements to operate in California,

that the institution is appealing the bureau's decision, and that the loss of the appeal may result in the institution's closure.

(3) If the bureau determines that the continued operation of an institution poses a significant risk of harm to students, the bureau shall make an emergency decision pursuant to Section 94938.

SEC. 4. Section 94813 of the Education Code is amended to read:

94813. "Accredited" means an institution is accredited by an accrediting agency recognized by the United States Department of Education.

SEC. 5. Section 94816 of the Education Code is amended to read:

94816. "Applicant" means a person, as defined in Section 94855, who has submitted an application to the board for an approval to operate or for a renewal of an approval to operate. An approval to operate shall be issued only to an applicant.

SEC. 6. Section 94829 of the Education Code is amended to read:

94829. "Default" means failure of a borrower and endorser, if any, to make an installment payment for a loan received under the federal student financial aid programs when due, or to meet other terms of the promissory note, provided that this failure persists for 270 days if payment is due monthly or 360 days if payment is due less frequently. For purposes of this section, "endorser" means an individual who signs a promissory note and agrees to repay the loan in the event that the borrower does not.

SEC. 7. Section 94837 of the Education Code is amended to read:

94837. "Educational program" means a planned sequence composed of a single course or module, or set of related courses or modules, that provides education, training, skills, or experience, or a combination of these.

SEC. 8. Section 94847 of the Education Code is amended to read:

94847. "License and examination preparation" means instruction designed to assist students to prepare for an examination for licensure. "License and examination preparation" does not include an educational program designed to instruct students in the skills and knowledge necessary to satisfy the qualifications for licensure.

SEC. 9. Section 94874 of the Education Code is amended to read:

94874. Except as provided in Section 94874.2, the following are exempt from this chapter:

(a) An institution that offers solely avocational or recreational educational programs.

(b) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(c) A postsecondary educational institution established, operated, and governed by the federal government or by this state or its political subdivisions.

(d) An institution offering either of the following:

(1) Test preparation for examinations required for admission to a postsecondary educational institution.

(2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field.

(C) A bona fide trade, business, or professional organization.

(e) (1) An institution owned, controlled, and operated and maintained by a religious organization lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(A) The instruction is limited to the principles of that religious organization, or to courses offered pursuant to Section 2789 of Business and Professions Code.

(B) The diploma or degree is limited to evidence of completion of that education.

(2) An institution operating under this subdivision shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(3) An institution operating under this subdivision shall not award degrees in any area of physical science.

(4) Any degree or diploma granted under this subdivision shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area.

(5) A degree awarded under this subdivision shall reflect the nature of the degree title, such as "associate of religious studies," "bachelor of religious studies," "master of divinity," or "doctor of divinity."

(f) An institution that does not award degrees and that solely provides educational programs for total charges of two thousand five hundred dollars (\$2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(g) A law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a law school or law study program that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the Business and Professions Code.

(h) A nonprofit public benefit corporation that satisfies all of the following criteria:

(1) Is qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(2) Is organized specifically to provide workforce development or rehabilitation services.

(3) Is accredited by an accrediting organization for workforce development or rehabilitation services recognized by the Department of Rehabilitation.

(i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(j) An institution that satisfies all of the following criteria:

(1) The institution has been accredited, for at least 10 years, by an accrediting agency that is recognized by the United States Department of Education.

(2) The institution has operated continuously in this state for at least 25 years.

(3) During its existence, the institution has not filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(4) The institution's cohort default rate on guaranteed student loans does not exceed 10 percent for the most recent three years, as published by the United States Department of Education.

(5) The institution maintains a composite score of 1.5 or greater on its equity, primary reserve, and net income ratios, as provided under Section 668.172 of Title 34 of the Code of Federal Regulations.

(6) The institution provides a pro rata refund of unearned institutional charges to students who complete 75 percent or less of the period of attendance.

(7) The institution provides to all students the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the second class session, or the 14th day after enrollment, whichever is later.

(8) The institution submits to the bureau copies of its most recent IRS Form 990, the institution's Integrated Postsecondary Education Data System Report of the United States Department of Education, and its accumulated default rate.

(9) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by an entity for profit.

(k) Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations and meet both of the following criteria:

(1) The flight instruction provider or program does not require students to enter into written or oral contracts of indebtedness.

(2) The flight instruction provider or program does not require or accept prepayment of instruction-related costs in excess of two thousand five hundred dollars (\$2,500).

SEC. 10. Section 94874.1 of the Education Code is amended to read:

94874.1. (a) Except as provided in Section 94874.2, an institution that is accredited by a regional accrediting agency that is recognized by the United States Department of Education, and is not an agency described in subdivision (i) of Section 94874, is exempt from this chapter, except Article 14 (commencing with Section 94923).

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 11. Section 94874.2 is added to the Education Code, to read:

94874.2. Beginning January 1, 2016, an institution that is approved to participate in veterans' financial aid programs pursuant to Section 21.4253 of Title 38 of the Code of Federal Regulations that is not an independent institution of higher education, as defined in subdivision (b) of Section 66010, may not claim an exemption from this chapter.

SEC. 12. Section 94876 of the Education Code is amended to read:

94876. (a) The powers and duties set forth in this chapter are vested in the Director of Consumer Affairs, who may delegate them to a bureau chief, subject to the provisions of this section. The bureau chief shall work in collaboration with the director. The director is responsible for the implementation of this chapter and he or she shall ensure that the protection of the public is the bureau's highest priority.

(b) The bureau chief shall be appointed by the Governor, subject to confirmation by the Senate, and is exempt from the State Civil Service Act pursuant to Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code.

(c) Each power granted to, or duty imposed upon, the bureau under this chapter shall be exercised and performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may delegate any powers or duties to a designee.

(d) As may be necessary to carry out this chapter, the director, in accordance with the State Civil Service Act, may appoint and fix the compensation of personnel.

SEC. 13. Section 94877 of the Education Code is amended to read:

94877. (a) The bureau shall adopt and shall enforce regulations to implement this chapter pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The bureau shall develop and implement an enforcement program, pursuant to Article 18 (commencing with Section 94932) to implement this chapter. The enforcement program shall include a plan for investigating complaints filed with the bureau. The bureau shall contract with the office of the Attorney General, or other appropriate state agency, to establish a process for the bureau's staff to be trained to investigate complaints, including, but not limited to, the information, evidence, and materials needed to process complaints.

(c) The bureau shall institute training to ensure that its staff are equipped to review and verify the accuracy of the data contained in consumer disclosures, including, but not limited to, the School Performance Fact Sheet.

(d) The bureau shall establish a program to proactively identify unlicensed institutions, identify material or repeated violations of this chapter and regulations implementing this chapter, and take all appropriate legal action.

SEC. 14. Section 94878 of the Education Code is amended to read:

94878. (a) The bureau shall establish an Internet Web site that includes at least all of the following information:

(1) An explanation of the bureau's scope of authority.

(2) (A) A directory of approved institutions, and a link, if feasible, to the Internet Web site of each institution.

(B) For each institution, the directory shall be developed in a manner that allows the user to search by institution and shall include all of the following information:

(i) The status of the institution's approval to operate.

(ii) The information provided by the institutions, including, but not limited to, the annual report, as required by Section 94934, including the school catalog and the School Performance Fact Sheet. The School Performance Fact Sheet shall be maintained on the directory for at least five years after the date of its submission to the bureau.

(iii) If a law school satisfies the requirements of this chapter regarding a School Performance Fact Sheet by complying with the requirements of Section 94910.5, the bureau shall include the information provided by the institution pursuant to Section 94910.5 on its Internet Web site and shall maintain the information in the same manner as required by clause (ii).

(iv) The disciplinary history of the institution, which shall include, but shall not be limited to, all of the following:

(I) Pending formal accusations filed by the bureau.

(II) Suspensions, revocations, citations, fines, infractions, probations, pending litigation filed by the bureau, and final judgments resulting from litigation filed by the bureau.

(III) Pending or final civil or criminal cases filed by the Attorney General, a city attorney, or a district attorney in this state, or filed in any state by an attorney general or a federal regulatory or prosecutorial agency if the case would be actionable under California or federal law, of which the bureau has received notice.

(IV) Final administrative actions by the United States Department of Education, including orders requiring restitution to students.

(V) All disciplinary actions ordered by an accreditation agency, including any order to show cause, of which the bureau has received notice pursuant to Section 94934 or other information otherwise publicly available of which the bureau has received notice.

(b) The bureau shall maintain the Internet Web site described in subdivision (a). The bureau shall ensure that the information specified in subdivision (a) is kept current. The bureau shall update the Internet Web site at least annually, to coincide with the submission of annual reports by the institutions pursuant to Section 94934.

(c) (1) The bureau shall post on its Internet Web site a list of all institutions that were denied approval to operate, after the denial is final, and describe in clear and conspicuous language the reason the institution was denied approval. The bureau shall include with this list the statement provided in paragraph (2) on its Internet Web site.

(2) “The following institutions were denied approval to operate by the Bureau for Private Postsecondary Education for failing to satisfy the standards relating to educational quality, or consumer

protection, or both. These unlicensed institutions are not operating in compliance with the law, and students are strongly discouraged from attending these institutions.”

SEC. 15. Section 94879 of the Education Code is amended to read:

94879. The bureau shall conduct an outreach program to secondary school pupils as well as prospective and current private postsecondary students, to provide them with information on how to best select a private postsecondary institution, how to enter into enrollment agreements, how to make informed decisions in the private postsecondary education marketplace, and how to contact the bureau for assistance. The bureau may accomplish the purposes of this section in cooperation with other federal, state, or local entities, or any combination of these entities.

SEC. 16. Section 94880 of the Education Code is amended to read:

94880. (a) There is within the bureau a 14-member advisory committee. On or before July 1, 2015, the members of the committee shall be appointed as follows:

(1) Three members, who shall have a demonstrated record of advocacy on behalf of consumers, of which the director, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint one member.

(2) Two members, who shall be current or past students of institutions, appointed by the director.

(3) Three members, who shall be representatives of institutions, appointed by the director.

(4) Two members, which shall be employers that hire students, appointed by the director.

(5) One public member appointed by the Senate Committee on Rules.

(6) One public member appointed by the Speaker of the Assembly.

(7) Two nonvoting, ex officio members as follows:

(A) The chair of the policy committee of the Assembly with jurisdiction over legislation relating to the bureau or designee appointed by the Speaker of the Assembly.

(B) The chair of the policy committee of the Senate with jurisdiction over legislation relating to the bureau or designee appointed by the Senate Committee on Rules.

(b) (1) A public member shall not, either at the time of his or her appointment or during his or her tenure in office, have any financial interest in any organization currently or previously subject to regulation by the bureau, be a close family member of an employee, officer, or the director of any institution subject to regulation by the bureau, or currently have, or previously have had, a business relationship, in the five years preceding his or her appointment, with any institution subject to regulation by the bureau.

(2) A public member shall not, within the five years immediately preceding his or her appointment, have engaged in pursuits on behalf of an institution or institutional accreditor or have provided representation to the postsecondary educational industry or a profession regulated by the bureau, if he or she is employed in the industry or a member of the profession, respectively, and he or she shall not engage in those pursuits or provide that representation during his or her term of office.

(c) The advisory committee shall examine the oversight functions and operational policies of the bureau and advise the bureau with respect to matters relating to private postsecondary education and the administration of this chapter, including annually reviewing the fee schedule and the equity of the schedule relative to the way institutions are structured, and the licensing and enforcement provisions of this chapter. The advisory committee shall make recommendations with respect to policies, practices, and regulations relating to private postsecondary education, and shall provide any assistance as may be requested by the bureau.

(d) The bureau shall actively seek input from, and consult with, the advisory committee regarding the development of regulations to implement this chapter prior to the adoption, amendment, or repeal of its regulations, and provide the advisory committee with sufficient time to review and comment on those regulations. The bureau shall take into consideration and respond to all feedback provided by members of the advisory committee.

(e) The bureau chief shall attend all advisory committee meetings and shall designate staff to provide ongoing administrative support to the advisory committee.

(f) Until January 1, 2017, the director shall personally attend, and testify and answer questions at, each meeting of the advisory committee.

(g) The advisory committee shall have the same access to records within the Department of Consumer Affairs related to the operation and administration of this chapter as do members of constituent boards of the department in regard to records related to their functions.

(h) Advisory committee meetings shall be subject to the Bagley-Keene Open Meeting Act. Advisory committee meeting materials shall be posted on the Internet.

(i) The advisory committee shall meet at least quarterly and shall appoint a member of the committee to represent the committee for purposes of communicating with the Legislature.

(j) The Department of Consumer Affairs shall review, and revise if necessary, the department's conflicts of interest regulations to ensure that each advisory committee member is required to disclose conflicts of interest to the public.

SEC. 17. Section 94880.1 is added to the Education Code, to read:

94880.1. (a) (1) The bureau shall establish a task force no later than March 1, 2015, to review standards for educational and training programs specializing in innovative subject matters and instructing students in high-demand technology fields for which there is a demonstrated shortage of skilled employees. The members of the task force may include postsecondary education experts, owners of institutions, consumer advocates focused on education, high technology employers, students of short-term focused high technology training programs, and providers of high technology training in subjects including, but not necessarily limited to, programming, software development, computer science, and coding.

(2) At least two members of the task force shall be members of the advisory committee. One of these members shall serve as chair of the task force.

(3) The task force shall transmit a report with its recommendations and findings to the advisory committee no later than January 1, 2016. The task force's report shall include, but not necessarily be limited to, all of the following:

(A) Whether students attending institutions should receive certain disclosures prior to enrolling in an educational program offered by those institutions.

(B) Whether the means of reporting student outcomes and the content of those reports are appropriate.

(C) The steps the state may take to promote the growth of high-quality training programs in skills for high technology occupations.

(b) The advisory committee shall review and approve, modify, or reject the report prepared pursuant to paragraph (3) of subdivision (a). The bureau shall provide the approved report to the Legislature no later than July 1, 2016.

(c) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(d) The report to be submitted to the Legislature pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 18. Section 94885 of the Education Code is amended to read:

94885. (a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

(1) The content of each educational program can achieve its stated objective.

(2) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.

(3) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

(4) The institution maintains a withdrawal policy and provides refunds.

(5) The directors, administrators, and faculty are properly qualified.

(6) The institution is financially sound and capable of fulfilling its commitments to students.

(7) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

(8) Adequate records and standard transcripts are maintained and are available to students.

(9) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

(b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one of the following requirements:

(i) Accreditation by an accrediting agency recognized by the United States Department of Education, with the scope of that accreditation covering the offering of at least one degree program by the institution.

(ii) An accreditation plan, approved by the bureau, for the institution to become fully accredited within five years of the bureau's issuance of a provisional approval to operate to the institution. The provisional approval to operate to an unaccredited degree-offering institution shall be in compliance with Section 94885.5.

SEC. 19. Section 94885.1 is added to the Education Code, to read:

94885.1. (a) An institution that is not accredited by an accrediting agency recognized by the United States Department of Education and offering at least one degree program, and that has obtained an approval to operate from the bureau on or before January 1, 2015, shall be required to satisfy at least one of the following no later than July 1, 2015:

(1) Accreditation by an accrediting agency recognized by the United States Department of Education, with the scope of that accreditation covering the offering of at least one degree program by the institution.

(2) Compliance with subdivision (b).

(b) The bureau shall identify institutions that are subject to subdivision (a) and notify those institutions by February 1, 2015, of the accreditation requirements pursuant to this section and that the institution is required provide the following information to the bureau if the institution plans to continue to offer a degree program after July 1, 2015:

(1) An accreditation plan that, at a minimum, identifies an accrediting agency recognized by the United States Department of Education from which the institution will seek accreditation, with the scope of that accreditation covering the offering of at least one degree program, and outlines the process by which the institution will achieve accreditation candidacy or pre-accreditation by July 1, 2017, and full accreditation by July 1, 2020.

(2) Evidence of having achieved accreditation candidacy or pre-accreditation by July 1, 2017.

(3) Evidence of having obtained full accreditation by July 1, 2020.

(4) Any additional documentation the bureau deems necessary.

(c) An institution that satisfies the requirements of subdivision (b) shall comply with all of the following:

(1) Notify students seeking to enroll in the institution, in writing, prior to the execution of the student's enrollment agreement, that the institution's approval to offer a degree program is contingent upon the institution being subsequently accredited.

(2) A visiting committee, empaneled by the bureau pursuant to Section 94882, shall review the institution by January 1, 2017, and determine if the institution is likely to achieve full accreditation by July 1, 2020. If the visiting committee finds the institution deficient in its accreditation plan, the bureau may prohibit the institution from enrolling new students in its degree program or programs, and require the execution of a teach-out plan for its enrolled students.

(d) Any institution that fails to comply with the requirements of this section by the dates provided, as required, shall have its approval to operate automatically suspended on the applicable date. The bureau shall issue an order suspending the institution and that suspension shall not be lifted until the institution complies with the requirements of this section. A suspended institution shall not enroll new students in any of its degree programs, and shall execute a teach-out plan for its enrolled students.

(e) The bureau shall adopt emergency regulations for purposes of implementing this section. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. These emergency regulations shall become law through the regular rulemaking process within one year of the enactment of this section.

(f) This section shall remain in effect until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 20. Section 94885.5 is added to the Education Code, to read:

94885.5. (a) If an institution that has not been accredited by an accrediting agency recognized by the United States Department of Education seeks to offer one or more degree programs, the institution shall satisfy the following requirements in order to be issued a provisional approval to operate from the bureau:

(1) The institution may not offer more than two degree programs during the term of its provisional approval to operate.

(2) The institution shall submit an accreditation plan, approved by the bureau, for the institution to become fully accredited within five years of issuance of its provisional approval to operate. The plan shall include, at a minimum, identification of an accreditation agency recognized by the United States Department of Education, from which the institution plans to seek accreditation, and outline the process by which the institution will achieve accreditation candidacy or pre-accreditation within two years, and full accreditation within five years, of issuance of its provisional approval.

(3) The institution shall submit to the bureau all additional documentation the bureau deems necessary to determine if the institution will become fully accredited within five years of issuance of its provisional approval to operate.

(b) If an institution is granted a provisional approval to operate pursuant to subdivision (a), the following is required:

(1) Students seeking to enroll in that institution shall be notified in writing by the institution, prior to the execution of the student's enrollment agreement, that the institution's approval to operate is contingent upon it being subsequently accredited.

(2) Within the first two years of issuance of the provisional approval, a visiting committee, empaneled by the bureau pursuant to Section 94882, shall review the institution's application for approval and its accreditation plan, and make a recommendation to the bureau regarding the institution's progress to achieving full accreditation.

(3) The institution shall provide evidence of accreditation candidacy or pre-accreditation within two years of issuance of its provisional approval, and evidence of accreditation within five years of issuance of its provisional approval, with the scope of that accreditation covering the offering of at least one degree program.

(c) An institution required to comply with this section that fails to do so by the dates provided, as required, shall have its

provisional approval to operate automatically suspended on the applicable date. The bureau shall issue an order suspending the institution and that suspension shall not be lifted until the institution complies with the requirements of this section. A suspended institution shall not enroll new students in any of its degree programs and shall execute a teach-out plan for its enrolled students.

(d) An institution issued a provisional approval under this section is required to comply with all other laws and regulations.

(e) The bureau shall adopt emergency regulations for purposes of implementing this section. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. These emergency regulations shall become law through the regular rulemaking process within one year of the enactment of this section.

SEC. 21. Section 94888 of the Education Code is amended to read:

94888. (a) The bureau shall adopt by regulation both of the following:

(1) The process and procedures whereby an institution seeking approval to operate may apply for and obtain an approval to operate.

(2) The process and procedures governing the bureau's approval and denial of applications for approval to operate, including the process and procedures whereby an applicant for which an application has been denied may appeal that denial.

(b) The bureau shall, by regulation, establish both of the following:

(1) A process for issuing a notification of a denial of an approval to operate to an institution that submits an application for approval to operate and for which that application is denied. The notification of denial shall include a statement of reasons for the denial.

(2) Application processing goals and timelines to ensure an institution that has submitted a complete application for approval to operate has that application promptly reviewed for compliance within 30 days of bureau receipt of the application, or within an appropriate timeline as determined by the bureau. The timelines shall ensure that an institution that has submitted a complete and

compliant application receives approval within 30 days of the application being deemed compliant by the bureau, or within an appropriate timeline as determined by the bureau.

SEC. 22. Section 94890 of the Education Code is amended to read:

94890. (a) (1) The bureau shall grant an institution that is accredited an approval to operate by means of its accreditation.

(2) The bureau shall adopt by regulation the process and procedures whereby an institution that is accredited may apply for and obtain an approval by means of that accreditation. The bureau shall establish application processing goals and timelines to ensure that an institution that has submitted a complete application for approval to operate by means of its accreditation has that application promptly reviewed for compliance within 30 days of the bureau's receipt of the application or within an appropriate timeline as determined by the bureau. The timelines shall ensure that an institution that has submitted a complete and compliant application receives approval within 30 days of the application being deemed compliant by the bureau, or within an appropriate timeline as determined by the bureau.

(b) The term of an approval to operate pursuant to this section shall be coterminous with the term of accreditation. Upon renewal of the institution's accreditation, the institution shall submit verification to the bureau, on a form provided by the bureau, that the institution's accreditation has been renewed.

(c) Institutions that are granted an approval to operate by means of the institution's accreditation shall comply with all other applicable requirements in this chapter.

SEC. 23. Section 94891 of the Education Code is amended to read:

94891. (a) The bureau shall adopt by regulation the process and procedures whereby an institution may obtain a renewal of an approval to operate.

(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards.

(c) (1) An institution that is denied renewal of an approval to operate may file an appeal in accordance with the procedures established by the bureau pursuant to Section 94888.

(2) An institution that has filed an appeal of a denial of a renewal application may continue to operate during the appeal process, but must disclose in a written statement, approved by the bureau, to all current and prospective students, that the institution's application for renewal of approval to operate was denied by the bureau because the bureau determined the application did not satisfy the requirements to operate in California, that the institution is appealing the bureau's decision, and that the loss of the appeal may result in the institution's closure.

(3) If the bureau determines that the continued operation of the institution during the appeal process poses a significant risk of harm to students, the bureau shall make an emergency decision pursuant to its authority provided in Section 94938.

SEC. 24. Section 94904 of the Education Code is amended to read:

94904. (a) Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed as of July 1, 2012, by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

(b) If the United States Department of Education does not have a list of relevant examinations that pertain to the intended occupational training, the bureau may publish its own list of acceptable examinations and required passing scores.

SEC. 25. Section 94909 of the Education Code is amended to read:

94909. (a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the institution is a private institution and that it is approved to operate by the bureau.

(3) The following statements:

(A) “Any questions a student may have regarding this catalog that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).”

(B) “As a prospective student, you are encouraged to review this catalog prior to signing an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet, which must be provided to you prior to signing an enrollment agreement.”

(C) “A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau’s Internet Web site (Internet Web site address).”

(4) The address or addresses where class sessions will be held.

(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

(7) Information regarding the faculty and their qualifications.

(8) A detailed description of institutional policies in the following areas:

(A) Admissions policies, including the institution’s policies regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests, admissions requirements for ability-to-benefit students, and a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction. If the institution has not entered into an articulation or transfer agreement with any other college or university, the institution shall disclose that fact.

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment

agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

(C) Probation and dismissal policies.

(D) Attendance policies.

(E) Leave-of-absence policies.

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

(12) A statement specifying whether the institution has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding five years, or has had a petition in bankruptcy filed against it within the preceding five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

(13) If the institution provides placement services, a description of the nature and extent of the placement services.

(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

(15) The following statement:

“NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer.”

(16) A statement specifying whether the institution, or any of its degree programs, are accredited by an accrediting agency recognized by the United States Department of Education. If the institution is unaccredited and offers an associate, baccalaureate, master’s, or doctoral degree, or is accredited and offers an unaccredited program for an associate, baccalaureate, master’s, or doctoral degree, the statement shall disclose the known limitations of the degree program, including, but not limited to, all of the following:

(A) Whether a graduate of the degree program will be eligible to sit for the applicable licensure exam in California and other states.

(B) A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California.

(C) That a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

(b) If the institution has a general student brochure, the institution shall provide that brochure to the prospective student prior to enrollment. In addition, if the institution has a program-specific student brochure for the program in which the prospective student seeks to enroll, the institution shall provide the program-specific student brochure to the prospective student prior to enrollment.

(c) An institution shall provide the school catalog to any person upon request. In addition, if the institution has student brochures, the institution shall disclose the requested brochures to any interested person upon request.

(d) An accredited institution is not required to provide a School Performance Fact Sheet to a prospective student who is not a California resident, not residing in California at the time of his or her enrollment, and enrolling in an accredited distance learning degree program offered by the institution, if the institution complies with all federal laws, the applicable laws of the state where the student is located, and other appropriate laws, including, but not limited to, consumer protection and student disclosure requirements.

SEC. 26. Section 94910 of the Education Code is amended to read:

94910. Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to enrollment, an institution shall provide a prospective student with a School Performance Fact Sheet containing, at a minimum, the following information, as it relates to the educational program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section 94928).

(b) Placement rates for each educational program, as calculated pursuant to Article 16 (commencing with Section 94928), if the educational program is designed to lead to, or the institution makes any express or implied claim related to preparing students for, a recognized career, occupation, vocation, job, or job title.

(c) License examination passage rates for programs leading to employment for which passage of a state licensing examination is required, as calculated pursuant to Article 16 (commencing with Section 94928).

(d) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928).

(e) If a program is too new to provide data for any of the categories listed in this subdivision, the institution shall state on its fact sheet: “This program is new. Therefore, the number of students who graduate, the number of students who are placed, or the starting salary you can earn after finishing the educational program are unknown at this time. Information regarding general salary and placement statistics may be available from government sources or from the institution, but is not equivalent to actual performance data.”

(f) All of the following:

(1) A description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated or a statement informing the reader of where he or she may obtain a description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated.

(2) A statement informing the reader of where he or she may obtain from the institution a list of the employment positions determined to be within the field for which a student received education and training for the calculation of job placement rates as required by subdivision (b).

(3) A statement informing the reader of where he or she may obtain from the institution a list of the objective sources of information used to substantiate the salary disclosure as required by subdivision (d).

(g) The following statements:

(1) “This fact sheet is filed with the Bureau for Private Postsecondary Education. Regardless of any information you may have relating to completion rates, placement rates, starting salaries, or license exam passage rates, this fact sheet contains the information as calculated pursuant to state law.”

(2) “Any questions a student may have regarding this fact sheet that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).”

(h) If the institution participates in federal financial aid programs, the most recent three-year cohort default rate reported by the United States Department of Education for the institution and the percentage of enrolled students receiving federal student loans.

(i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not required to include students who satisfy the qualifications specified in subdivision (d) of Section 94909, but an institution shall disclose whether the data, information, or both provided in its fact sheet excludes students pursuant to this subdivision. An institution shall not actively use data specific to the fact sheet in its recruitment materials or other recruitment efforts of students who are not California residents and do not reside in California at the time of their enrollment.

SEC. 27. Section 94916 of the Education Code is amended to read:

94916. An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

“NOTICE”

“You may assert against the holder of the promissory note you signed in order to finance the cost of the educational program all of the claims and defenses that you could assert against this institution, up to the amount you have already paid under the promissory note.”

SEC. 28. Section 94923 of the Education Code is amended to read:

94923. (a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an educational program, as defined in Section 94837, at an institution not exempt from this article pursuant to Article 4 (commencing with Section 94874), who, at the time of his or her enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

(b) The bureau shall adopt by regulation procedures governing the administration and maintenance of the Student Tuition Recovery Fund, including requirements relating to assessments on students and student claims against the Student Tuition Recovery Fund. The regulations shall provide for awards to students who suffer economic loss.

The regulations shall ensure that the following students, and any other students deemed appropriate, are eligible for payment from the Student Tuition Recovery Fund:

(1) Any student who was enrolled at an institution, at a location of the institution, or in an educational program offered by the institution, at the time that institution, location, or program was closed or discontinued, as applicable, who did not choose to participate in a teach-out plan approved by the bureau or did not complete a chosen teach-out plan approved by the bureau.

(2) Any student who was enrolled at an institution or a location of the institution within the 120-day period before the closure of the institution or location of the institution, or who was enrolled in an educational program within the 120-day period before the program was discontinued, if the bureau determines there was a significant decline in the quality or value of that educational program during that time period.

(3) Any student who was enrolled at an institution or a location of the institution more than 120 days before the closure of the institution or location of the institution, in an educational program offered by the institution as to which the bureau determines there was a significant decline in the quality or value of the program more than 120 days before closure.

(4) A student to whom an institution has been ordered to pay a refund by the bureau but has failed to do so.

(5) A student to whom an institution has failed to pay or reimburse loan proceeds under a federal student loan program as required by law, or has failed to pay or reimburse proceeds received by the institution in excess of tuition and other costs.

(6) A student who has been awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of this chapter by an institution or representative of an institution, but who has been unable to collect the award from the institution. The bureau shall review the award or judgment and shall ensure the amount to be paid from the fund does not exceed the student's economic loss.

(c) Any student who is required to pay a Student Tuition Recovery Fund assessment who pays tuition equal to or greater than the required assessment shall be deemed to have paid the required assessment, whether or not his or her enrollment agreement specifies collection of the required assessment, and

whether or not the institution identifies any money collected from the student as a Student Tuition Recovery Fund assessment.

(d) The bureau shall establish regulations ensuring, as permissible under California law, that a student who suffers educational opportunity losses, whose charges are paid by a third-party payer, is eligible for educational credits under the fund.

(e) The bureau may seek repayment to the Student Tuition Recovery Fund from an institution found in violation of the law for which a student claim was paid. An institution shall not be eligible to renew its approval to operate with the bureau if the repayment is not made to the bureau as requested.

(f) The bureau shall, by regulation, define “economic loss.” The regulation shall ensure that the definition of “economic loss” includes, but is not necessarily limited to, pecuniary loss, which is the sum of the student’s tuition, all other institutional charges as defined in Section 94844, the cost of equipment and materials required for the educational program as defined in Section 94837, interest on any student loan used to pay for such charges, collection costs, penalties, and any license or examination fees the student paid to the institution but is unable to recover. Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. Economic loss does not include Student Tuition Recovery Fund assessments, unless the student is entitled to a full refund under Section 94919 or 94920, room and board, supplies, transportation, application fees, or nonpecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages. Economic loss does not include legal fees, attorney fees, court costs, or arbitration fees. Nothing in this subdivision shall prevent the bureau from further defining economic loss to include loss of educational opportunity.

SEC. 29. Section 94924 of the Education Code is amended to read:

94924. (a) The bureau shall determine the amount of Student Tuition Recovery Fund assessments to be collected for each student.

(b) All assessments collected pursuant to this article shall be credited to the Student Tuition Recovery Fund, along with any accrued interest, for the purpose of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the Student

Tuition Recovery Fund are continuously appropriated to the bureau, without regard to fiscal year, for the purposes of this article.

(c) Except when an institution provides a full refund pursuant to Section 94919 or Section 94920, the Student Tuition Recovery Fund assessment is nonrefundable.

SEC. 30. Section 94925 of the Education Code is amended to read:

94925. (a) The amount in the Student Tuition Recovery Fund shall not exceed twenty-five million dollars (\$25,000,000) at any time.

(b) If the bureau has temporarily stopped collecting the Student Tuition Recovery Fund assessments because the fund has approached the twenty-five million dollar limit in subdivision (a), the bureau shall resume collecting Student Tuition Recovery Fund assessments when the fund falls below twenty million dollars (\$20,000,000).

(c) An otherwise eligible student who enrolled during a period when institutions were not required to collect Student Tuition Recovery Fund assessments is eligible for Student Tuition Recovery Fund payments despite not having paid any Student Tuition Recovery Fund assessment.

SEC. 31. Section 94929.5 of the Education Code is amended to read:

94929.5. (a) An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement.

(2) The license examination passage rates for the immediately preceding two years for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program. The institution shall use state agency licensing data to calculate license examination passage rates. If those data are unavailable, the institution shall calculate the license

examination passage rate in a manner consistent with regulations adopted by the bureau.

(3) Salary and wage information, consisting of the total number of graduates employed in the field and the annual wages or salaries of those graduates stated in increments of five thousand dollars (\$5,000).

(4) If applicable, the most recent official three-year cohort default rate reported by the United States Department of Education for the institution and the percentage of enrolled students receiving federal student loans.

(b) Nothing in this section shall limit the bureau's authority to collect information from an institution to comply with this section and ensure, by regulation and other lawful means, that the information required by this section, and the manner in which it is collected and reported, is all of the following:

- (1) Useful to students.
- (2) Useful to policymakers.
- (3) Based upon the most credible and verifiable data available.
- (4) Does not impose undue compliance burdens on an institution.

(c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) is not required to include students who satisfy the qualifications specified in subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the bureau whether its data, information, or both, excludes any students pursuant to this subdivision.

SEC. 32. Section 94929.9 is added to the Education Code, to read:

94929.9. (a) The bureau shall consider the graduate salary and other outcome data and reporting requirements that are utilized by the United States Department of Education, the Student Aid Commission, accrediting agencies, and student advocate associations. The bureau shall consider the reporting requirements of public postsecondary institutions in California to evaluate the feasibility of adopting these reporting requirements for private postsecondary institutions. The bureau shall make recommendations to the Legislature, on or before December 31, 2016, on how reporting requirements under this chapter should be altered to ensure accurate, useful, and consistent reporting by private postsecondary institutions to the bureau and students.

(b) The bureau is authorized to enter into a personal services contract with an appropriate independent contractor to assist in the evaluation required by subdivision (a). In this connection, the Legislature finds, pursuant to Section 19130 of the Government Code, that this is a new state function.

(c) (1) A report to be submitted to the Legislature pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed January 1, 2017.

SEC. 33. Section 94930.5 of the Education Code is amended to read:

94930.5. Subject to Section 94930, an institution shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund the following fees, in accordance with the following schedule:

(a) The following fees shall be remitted by an institution submitting an application for an approval to operate, if applicable:

(1) Application fee for an approval to operate: five thousand dollars (\$5,000).

(2) Application fee for the approval to operate a new branch of the institution: three thousand dollars (\$3,000).

(3) Application fee for an approval to operate by means of accreditation: seven hundred fifty dollars (\$750).

(b) The following fees shall be remitted by an institution seeking a renewal of its approval to operate, if applicable:

(1) Renewal fee for the main campus of the institution: three thousand five hundred dollars (\$3,500).

(2) Renewal fee for a branch of the institution: three thousand dollars (\$3,000).

(3) Renewal fee for an institution that is approved to operate by means of accreditation: five hundred dollars (\$500).

(c) The following fees shall apply to an institution seeking authorization of a substantive change to its approval to operate, if applicable:

(1) Processing fee for authorization of a substantive change to an approval to operate: five hundred dollars (\$500).

(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation: two hundred fifty dollars (\$250).

(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of the following:

(A) An annual institutional fee, in an amount equal to three-quarters of 1 percent of the institution's annual revenues derived from students in California, but not exceeding a total of twenty-five thousand dollars (\$25,000) annually.

(B) An annual branch fee of one thousand dollars (\$1,000) for each branch or campus of the institution operating in California.

(2) The amount of the annual fees pursuant to paragraph (1) shall be proportional to the bureau's cost of regulating the institution under this chapter.

SEC. 34. Section 94932.5 of the Education Code is amended to read:

94932.5. (a) As part of its compliance program, the bureau shall perform announced and unannounced inspections of institutions at least every five years.

(b) On or before January 1, 2017, the bureau shall adopt regulations setting forth policies and practices to ensure that student protections are the highest priority of inspections and that inspections are conducted based on risk and potential harm to students. The regulations shall also set forth policies and practices for providing notice to students enrolled at an institution of the results of each inspection of the institution.

SEC. 35. Section 94941 of the Education Code is amended to read:

94941. (a) An individual who has cause to believe that an institution has violated this chapter, or regulations adopted pursuant to this chapter, may file a complaint with the bureau against the institution. The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.

(b) To ensure that the bureau's resources are maximized for the protection of the public, the bureau, in consultation with the advisory committee, shall establish priorities for its inspections and other investigative and enforcement resources to ensure that institutions representing the greatest threat of harm to the greatest number of students are identified and disciplined by the bureau or referred to the Attorney General.

(c) In developing its priorities for inspection, investigation, and enforcement regarding institutions, the bureau shall consider as posing heightened risks the characteristics of the following institutions:

(1) An institution that receives significant public resources, including an institution that receives more than 70 percent of its revenues from federal financial aid, state financial aid, financial aid for veterans, and other public student aid funds.

(2) An institution with a large number of students defaulting on their federal loans, including an institution with a three-year cohort default rate above 15.5 percent.

(3) An institution with reported placement rates, completion rates, or licensure rates in an educational program that are far higher or lower than comparable educational institutions or programs.

(4) An institution that experiences a dramatic increase in enrollment, recently expanded educational programs or campuses, or recently consolidated campuses.

(5) An institution that offers only nonremedial educational program courses in English, but enrolls students with limited or no English language proficiency.

(6) An institution that has experienced a recent change of ownership or control, or a change in the business organization of the institution.

(7) An institution with audited financial statements that do not satisfy the bureau's requirements for financial stability.

(8) An institution that has recently been the subject of an investigation, judgment, or regulatory action by, or a settlement with, a governmental agency.

(9) An institution that experiences institutional or programmatic accreditation restriction by an accreditor, government restriction of, or injunction against, its approval to operate, or placement on cash-reimbursement or heightened monitoring status by the United States Department of Education.

(d) The bureau shall indicate in an annual report, to be made publicly available on its Internet Web site, the number of temporary restraining orders, interim suspension orders, and disciplinary actions taken by the bureau, disaggregated by each priority category established pursuant to subdivision (b).

(e) The bureau shall, in consultation with the advisory committee, adopt regulations to establish categories of complaints or cases that are to be handled on a priority basis. The priority complaints or cases shall include, but not be limited to, those alleging unlawful, unfair or fraudulent business acts or practices, including unfair, deceptive, untrue, or misleading statements, including all statements made or required to be made pursuant to the requirements of this chapter, related to any of the following:

(1) Degrees, educational programs, or internships offered, the appropriateness of available equipment for a program, or the qualifications or experience of instructors.

(2) Job placement, graduation, time to complete an educational program, or educational program or graduation requirements.

(3) Loan eligibility, terms, whether the loan is federal or private, or default or forbearance rates.

(4) Passage rates on licensing or certification examinations or whether an institution's degrees or educational programs provide students with the necessary qualifications to take these exams and qualify for professional licenses or certifications.

(5) Cost of an educational program, including fees and other nontuition charges.

(6) Affiliation with or endorsement by any government agency, or by any organization or agency related to the Armed Forces, including, but not limited to, groups representing veterans.

(7) Terms of withdrawal and refunds from an institution.

(8) Payment of bonuses, commissions, or other incentives offered by an institution to its employees or contractors.

SEC. 36. Section 94945 of the Education Code is amended to read:

94945. (a) This chapter does not limit or preclude the enforcement of rights or remedies under any other applicable statute or law.

(b) This chapter does not limit or preclude the Attorney General, a district attorney, or a city attorney from taking any action otherwise authorized under any other applicable statute or law.

(c) If the bureau has reason to believe that an institution has engaged in a pattern or practice of violating the provisions of this chapter or any other applicable law that involves multiple students or other claimants, the bureau shall contract with the Attorney General for investigative and prosecutorial services, as necessary.

SEC. 37. Section 94947 is added to the Education Code, to read:

94947. (a) Notwithstanding Section 94874.2, an institution described in subdivision (i) of Section 94874 that satisfies all of the following requirements may claim an exemption from this chapter.

(1) The institution has been accredited by an accrediting agency recognized by the United States Department of Education for at least 10 years, and has not been placed on probation or on a greater level than standard monitoring, or sanctioned, by its accrediting agency.

(2) The institution is headquartered in California and has operated continuously in this state for at least 25 years.

(3) The institution is privately held and prior to its current exemption, the institution was granted an approval to operate by the Bureau for Private Postsecondary Education, or its predecessor agency and has experienced no change of ownership since the institution was last approved.

(4) During its existence, the institution has not filed for bankruptcy protection.

(5) The institution maintains an equity ratio composite score of at least 1.5 based on the current financial stability test.

(6) At least 12.5 percent of the institution's revenues are derived from sources other than financial aid. For purposes of this requirement, financial aid includes all forms of state or federal student assistance, including, but not limited to, financial aid provided to veterans and financial aid through the Cal Grant Program.

(7) The institution's cohort default rate does not exceed 13 percent for the most recent three years, as published by the United States Department of Education.

(8) The institution has a graduation rate that exceeds 60 percent, as reported to the Integrated Postsecondary Education Data System.

(9) The institution has not been subject to any legal or regulatory actions by a state attorney general for a violation of consumer protection laws that resulted in monetary settlement, fines, or other documented violations.

(10) The institution provides a pro rata refund of unearned institutional charges to students who complete 75 percent or less of the period of attendance.

(11) The institution provides to all students the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the second class session, or the 14th day after enrollment, whichever is later.

(12) The institution complies with all other reasonable criteria, necessary to ensure educational quality and protection of veterans, established by the California State Approving Agency for Veterans Education.

(13) The institution verifies its exemption pursuant to Section 94874.1.

(b) An institution exempt from this chapter pursuant to this section may apply to the bureau for an approval to operate pursuant to Section 94874.8

(c) It is the intent of the Legislature that if the exemption provided in this section is declared by a court to be invalid for any reason, the requirements of this chapter shall apply to an institution that would otherwise be subject to receive this exemption.

SEC. 38. Section 94948 of the Education Code is amended to read:

94948. In addition to any other reporting requirements under this chapter, the director shall provide written updates to the Legislature every six months and shall participate in all oversight hearings conducted by the appropriate policy committees and budget subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress in protecting consumers and enforcing the provisions of this chapter.

SEC. 39. Section 94949 of the Education Code is repealed.

SEC. 40. Section 94949 is added to the Education Code, to read:

94949. (a) The director shall provide to the Legislature a copy of an independent review of the bureau's staffing resources needs and requirements no later than March 15, 2015. The director shall include with this report an overview of how the director intends to ensure that the bureau's staff are sufficiently qualified for purposes of implementing the provisions of this chapter, and the estimated costs of meeting staffing and other requirements to implement this chapter based on findings of the independent review. The director shall include a brief evaluation of whether the current fee structure is appropriate to satisfy those staffing and other requirements.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2017.

SEC. 41. Section 94950 of the Education Code is amended to read:

94950. This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 42. The sum of one hundred thirty thousand dollars (\$130,000) is hereby appropriated from the Private Postsecondary Education Administration Fund to the Bureau for Private Postsecondary Education, for the 2014–15 fiscal year, to be combined with any other available funds, for purposes of establishing one permanent attorney position at the bureau to assist the bureau in its regulatory activities, and one permanent analyst position at the bureau to provide support to the advisory committee.

SEC. 43. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor